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10/507,488	05/02/2005	Reginald Lyall Reid	4503-1011	8568
<div>465 7590 04/09/2010</div> <div>YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314</div>				
EXAMINER				
OLSZEWSKI, JOHN				
ART UNIT		PAPER NUMBER		
3618				
NOTIFICATION DATE		DELIVERY MODE		
04/09/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary

Application No.

10/507,488

Applicant(s)

REID, REGINALD LYALL

Examiner

JOHN R. OLSZEWSKI

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20-26, 33-37 and 39-45, 49-53, and 60-61 is/are pending in the application.
- 4a) Of the above claim(s) 27-32, 38, 46-48 and 62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-26, 33-37, 39-45, 49-53, 60 and 61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-840)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 3-18, 20-26, 33-37, 39, 49, and 60-61 rejected under 35

U.S.C. 102(e) as being anticipated by Hong (US 2003/0141679).

With regards to claim 1, Hong discloses:

- At least one foot supporting member (1 and 2)
- The foot supporting member including, or including provision for attachment of, at least two axle assemblies (Figure 1)
- Said axle assemblies adapted to receive rotational motion-facilitating means (A1)
- The personal conveyance characterized by the motion-facilitating means being positioned relative to the foot supporting member such that at least a portion of the motion-facilitating means extends in a vertical plane above and perpendicular to a receiving side of the foot supporting member, the foot supporting member oriented horizontally (Figures 3A and 3B)
- The foot supporting member having a wall extending outwardly from the receiving side thereof, the wall extending about the periphery of the foot supporting member (A3), both a wheelbase of the motion-facilitating means and the contact between wheels and the surface on which the conveyance is being

used in a manner whereby stability is effected of either or both the personal conveyance and a person standing thereon (Figure 3A and 3B, Items A1)

With regards to claim 3, Hong discloses:

- Wherein the personal conveyance is also adapted to include optional braking means (Figure 1, clearly illustrates a conventional brake)

With regards to claim 4, Hong discloses:

- Wherein stability of either or both the conveyance and a person standing thereon is further effected by at least one of :
 - The dimensions of the motion-facilitating means
 - The dimensions of the foot supporting member;
 - The location of the axle assemblies relative to the length of the foot supporting member;
 - The position of either or both the axle assemblies and the foot supporting member relative to the motion-facilitating means effecting a change in the center of gravity of the personal conveyance

The above limitations are present in the design of Hong's invention. Since Hong discloses all of the elements of the claims thus far it follows that the stability is affected by all of the above listed elements due to their interaction with one another.

With regards to claim 5, Hong discloses:

- Wherein stability of either or both the conveyance and a person standing thereon is further effected by at least one of:

- Operation of the steering means
- Operation of the breaking means

The above limitations are present in the design of Hong's invention. Since Hong discloses all of the elements of the claims thus far it follows that the stability is affected by all of the above listed elements due to their interaction with one another.

With regards to claim 6, Hong discloses:

- Wherein the foot supporting member is dimensioned to be substantially rectangular being adapted to maintain a foot or shoe in position thereon and includes a front leading edge and a rear trailing end (Figure 1)

With regards to claim 7, Hong discloses:

- The dimensions of the foot supporting member are adjustable via adjustment means (Item 3)

With regards to claim 8, Hong discloses:

- The adjustment means to adjust the dimensions of the foot supporting member includes provision to extend the length of the foot supporting member by longitudinal movement of portions of the foot supporting member via at least one of a screw system, a ratchet system, a sliding system each of which is securable following the adjustment (Item 3)

With regards to claim 9, Hong discloses:

- The dimensions of the foot supporting member are adjustable to accommodate variations in a size of at least one of a user's feet, shoes, and custom-made

footwear of varying sizes specifically manufactured for use with the personal conveyance (Item 3)

With regards to claim 10 Hong discloses:

- The foot supporting member is also adapted to include gripping means (Item A4)

With regards to claim 11 Hong discloses:

- The gripping means effects at least one of:
 - Minimizing longitudinal and/or lateral movement of the users' foot or shoe (A4)
 - Gripping a custom-made manufactured shoe specifically included on or attachable to the foot supporting member
 - Re-positioning of the user's foot or shoe;
 - Ensuring a correct fit for the user's foot or shoe size and shape
- on the foot supporting member (Figure 1)

With regards to claim 12 Hong discloses:

- The gripping means further effects at least one of:
 - Improved maneuverability of the conveyance
 - The ability to initiate and maintain preferred operation of the conveyance
 - The safety for the user by minimizing the likelihood of the foot/shoe becoming loose from the conveyance,
 - Minimizing the likelihood of injury, particularly to the user's ankles

With regards to claim 13 Hong discloses:

- The gripping means includes one of the following:

- A fixing apparatus from a group consisting of: straps, screws, buckles, hook and pile systems, press studs, ties, bolts, with or without safety release systems (A4)
- Configured portions of a gripping nature including portions on the surface of the foot supporting member to receive and hold a foot or shoe in place on the foot supporting member, or improve traction of the surface of the foot supporting member, with or without safety release systems)
 - whether the shoe is attached permanently or temporarily to the foot supporting member

With regards to claim 14, Hong discloses:

- A first axle assembly, of the at least two axle assemblies, is located towards the front leading end of the foot supporting member (Figure 1)
- At least one other axle assembly, of the at least two axle assemblies, is located towards the rear trailing end of the foot supporting member (Figure 1)

With regards to claim 15, Hong discloses:

- Each axle assembly comprises at least one shaft located transverse of the foot supporting member and capable of independently supporting motion-facilitating means at the outer distal end(s) of the shaft (Figure 1)

With regards to claim 16, Hong discloses:

- The shaft of each axle assembly is configured to be any one of:
 - A substantially straight elongated shaft (Figure 1)

- A substantially elongated shaft having stepped portions at at least each outer distal end
- At least two shorter independent shafts each one being located towards opposite side edges of the foot supporting member
- Attachable along at least a portion of its length to at least one of the foot supporting member and the steering means
- Integral along at least a portion of its length with at least one of the foot supporting member and the steering means

With regards to claim 17, Hong discloses:

- The shaft of each axle assembly are:
 - Independent of each other (Figure 1)
 - Pivotally mounted towards at least the front leading end of the foot supporting member to enable directional movement to be achieved (Figure 2)

With regards to claim 18, Hong discloses:

- A combination of axle assembly arrangements may be employed dependent upon:
 - The size, number and location of the motion-facilitating means
 - The proposed use of the conveyance including recreational, extreme sport, speed, skills
 - The terrain over which the personal conveyance is designed to travel

It would follow that a device which has an intended design, for it to be built to cater to the needs and requirements of the activity and environment in which it is to be used, therefore all the above would be inherent characteristics to be imparted on a device in order to alter its basic design

With regards to claim 20, Hong discloses:

- The motion-facilitating means, when attached to the distal end of an axle of one of the at least two axle assemblies, extends laterally of the foot supporting member (Figure 3A)

With regards to claim 21, Hong discloses:

- At least a portion of the motion-facilitating means, when attached to the distal end of the axles, extends in the vertical plane above and perpendicular to the horizontal plane of the upper surface of the foot supporting member (Figure 3A)

With regards to claim 22, Hong discloses:

- The motion-facilitating means is attached to the distal ends of the axles such that the center of rotation of the motion-facilitating means is substantially positioned at any one of:
 - Below the lower surface of the foot supporting member (Figure 3A)
 - In line with the horizontal plane of the foot supporting member
 - Above the upper surface of the foot supporting member

With regards to claim 23, Hong discloses:

- The position of the motion-facilitating means relative to the axle and the foot supporting member determines variations in the center of gravity of the personal

conveyance as determined for effecting degrees of stability depending on the configuration of the personal conveyance and the use for which it is designed

Since Hong discloses all of the elements of the claims thus far it would follow that the degree of stability is affected by all of the above listed elements due to their interaction with one another.

With regards to claim 24, Hong discloses:

- The center of gravity is lowered to effect a preferred stability

Since Hong discloses all of the elements of the claims thus far it follows that the degree of stability is affected by lowering the center of gravity.

With regards to claim 25, Hong discloses:

- The motion-facilitating means is one of the group consisting of: wheels, rotating tracks, rollers (A1)

With regards to claim 26, Hong discloses:

- The motion-facilitating means are configured to include any of an inflatable portion, substantially solid portion, varying spoke arrangements, bearings for a smoother ride and improved motion-facilitating means performance (A1)

With regards to claim 33, Hong discloses:

- Having larger diameter motion-facilitating means configured to extend in a vertical plane above and perpendicular to the foot supporting member serves as additional support and protection for the users' ankles and/or minimizes the likelihood of the conveyance tipping over on to its side thereby making it less likely that the user may twist his or her ankle

This is present in the design of Hong's invention. By placing the center of gravity of the device lower to the ground, it follows that the chance of the conveyance tipping is lowered.

With regards to claim 34, Hong discloses:

- Having larger diameter motion-facilitating means tends to lower the rolling resistance experienced with smaller diameter motion-facilitating means and as such enables speed to be achieved for much less effort

This is present in the design of Hong's invention.

With regards to claim 35, Hong discloses:

- When the center of gravity is lowered, less rolling resistance is encountered by each motion-facilitating means because the position of the central axis of rotation of each motion-facilitating means is such that the position of the center of rotation of the motion-facilitating means relative to the foot supporting member is raised

In as much as applicant's device achieves this so does the invention of Hong.

With regards to claim 36, Hong discloses:

- Less rolling resistance and the diameter of the motion-facilitating means enables the personal conveyance to be used more effectively on uneven ground, grassed surfaces, and graveled surfaces

In as much as applicant's device achieves this so does the invention of Hong.

With regards to claim 37, Hong discloses:

- The dimensions of the foot supporting member are variable (Item 3)

With regards to claim 39, Hong discloses:

- The optional braking means includes a stop which is deployed against the ground surface by tipping the rear or front end of the foot supporting member downwards (Figure 1)

Method claim 49 is also rejected under this rejection since all of the structure has been found to have been disclosed in the prior art of record, therefore the structure used to reject the apparatus claims can be made by the method as claimed.

[claim 60] wherein the at least two axle assemblies attach directly to the foot supporting member (Figure 1); **[claim 61]** wherein a distance between the at least two axle assemblies is less than the foot supporting member's length (Figures 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 2, 40-45, and 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hong (US 2003/0141679) in view of Nelson (US 319,839).

With regards to claim 2, Hong lacks, but Nelson teaches:

- The personal conveyance is adapted to include steering means (Figures 1-3)

With regards to claim 40, Hong lacks, but Nelson teaches:

- The steering means includes pivoting means (D) and resilience means (L) (Figure 3)

With regards to claim 41, Hong lacks, but Nelson teaches:

- The pivoting means is centrally positioned in relation to at least axle means located towards the front leading end of the foot supporting member (Figure 2)

With regards to claim 42 Hong lacks, but Nelson teaches:

- At least a portion of the pivoting means is integrally molded with the axle means and is attachable to the foot supporting member via attachment means, wherein the attachment means are one of pins, nuts and bolts, and screws (Figure 2)

With regards to claim 43 Hong lacks, but Nelson teaches:

- The resilience means includes at least one pair of compressible springs (L) positioned along the axle shaft at least one of the front leading end and the rear trailing end of the foot supporting member (Figure 1, Items L)

With regards to claim 44 Hong lacks, but Nelson teaches:

- The springs at the front leading end of the foot supporting member are lighter than the springs at the rear trailing end of the foot supporting member

It would have been obvious to one having ordinary skill in the art to take the teaching of a dual coil spring suspension that is being used in the teachings of Nelson and incorporate them into the invention of Hong in order to provide a more adjustable suspension and steering system in order to accommodate more discerning riders. In doing so it would be desirable to one of ordinary skill in the art to vary the spring constants between the front and the rear to alter the accelerating, decelerating and turning characteristics of the invention to perform better in specific intended environments. In varying the spring constants and maintaining the spring heights being consistent conventionally one set of springs becomes heavier than another set of springs.

With regards to claim 45 Hong lacks, but Nelson teaches:

- The steering means is operable to effect steering via the user shifting body weight and effecting compression of at least one front and/or one rear spring to effect pivoting of the pivoting means and the axle means resulting in turning of the motion facilitating means and a directional change of the personal conveyance (Figure 1)

With regards to the rejections of claims 2 and 40-45 above:

- It would have been obvious to regards to the structural limitations of the above listed claims to incorporate the teachings of Nelson into the invention of Hong in order to provide a more versatile device that is capable of being used on a broader range of terrains and able to absorb more shock as opposed to directly transmitting received shocks to the user.

Method claims 50-53 are also rejected under this rejection since all of the structure has been found to have been disclosed and taught in the prior art of record, therefore the structure used to reject the apparatus claims can be made by the method as claimed.

Response to Arguments

3. Applicant's arguments with respect to claims 1-18, 20-26, 33-37, 39-45, 49-53, and 60-61 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. OLSZEWSKI whose telephone number is (571)272-2706. The examiner can normally be reached on M-Th 5:30AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. R. O./
Examiner, Art Unit 3618

04/06/2010

/Hau V Phan/
Primary Examiner, Art Unit 3618